

4.16. Registered Marijuana Dispensary

4.16.1. Purpose

To provide for the placement of Registered Marijuana Dispensary (RMDs), in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c. 94C App. 1-1 – Chapter 369 of the Acts of 2012 in locations suitable for lawful medical marijuana facilities and to minimize adverse impact of RMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security and removal of RMDs.

4.16.2. Applicability

4.16.2.1. All RMDs shall comply with The Regulations promulgated by the Massachusetts Department of Public Health (DPH) 105 CMR 725.000 Implementation of an Act for the Humanitarian Medical Use of Marijuana, effective May 24, 2013, and any subsequent amendments thereto.

4.16.2.2. The Town reserves the right to require provisions in the DPH Regulations for which the state granted waivers and/or exemptions to the RMD applicant based on the provisions of Section 8.3.3. (as to special permit) and Section 8.4. (as to development plan review).

4.16.3. Definition

Registered Marijuana Dispensary: also known as a Medical Marijuana Treatment Center, means a not-for-profit entity registered under 105 CMR 725.000, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

4.16.4. Location

4.16.4.1. RMD's that include retail, processing and cultivation are allowed in Commercial Districts by special permit.

4.16.4.2. Cultivation with agricultural processing: Allowed in all Districts by right if applicant is eligible for protection under Section 4.1.3(b) and G.L. c. 40A, § 3. Any cultivation within a building will require a special permit.

Section 4.16.5. Procedure for Submittal

4.16.5.1. The Planning Board shall be the Special Permit Granting Authority (SPGA) for a RMD Special Permit per MA Gen. Law 40A, Section 9. Siting shall be by Special Permit and Development Plan Review per Section 8.4 of the Lunenburg Protective Bylaw.

4.16.5.1.a) Criteria In granting any special permit, the Planning Board shall assure that the proposed use:

1) Will not be injurious or dangerous to the public health or unduly hazardous because of traffic congestion, danger or fire or explosion or other reasons.

2) Will not have a material adverse effect on the value of land and buildings in the neighborhood or on the amenities of the neighborhood.

3) Will be operated with reasonable regard for order and sightliness, if an open use.

4) Will not produce noise, vibration, smoke, dust, odor, heat or glare observable at the lot lines in amounts clearly detrimental to the normal use of adjacent property.

4.16.5.2. It is recommended that a concept plan showing the proposed use be submitted to the Planning Board for review and discussion prior to the filing for Development Plan Review.

4.16.5.3. The provisions of Section 8.3.3. (as to Special Permits) and Section 8.4. (as to Development Plan Review) shall apply.

4.16.5.4. Filing under Section 8.3.3. and 8.4. may be simultaneous.

4.16.5.5. A special permit granted under this Section shall have a term limited to the duration of the applicant's ownership of the premises as a RMD. A special permit may be transferred only with the approval of the Special Permit Granting Authority in the form of an amendment to the special permit with all information required in this Section.

4.16.6. Conditional Standards

4.16.6.1 Distance All proposed RMDs shall be sited accordingly as stated in Massachusetts Department of Public Health (DPH) 105 CMR 725.110 (A) (14), which states a RMD shall not be sited within a radius of five hundred (500) feet of a school, daycare center, or any facility in which children commonly congregate. The 500 foot distance under this section is measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed RMD.

4.16.6.2 Setbacks and Buffer Strips Cultivation facilities located within Residential Districts shall be surrounded by a buffer strip which shall be two hundred (200) feet in depth unless the applicant can demonstrate, and the Planning Board finds, that adequate buffering can be provided in a narrower buffer strip. In all other districts existing setbacks will apply.

~~For Retail Distributions facilities without any cultivation component, which are allowed within the Commercial Districts only, existing setbacks will apply.~~

4.16.6.3 Design Standards In addition to requirements contained elsewhere in this Bylaw, Section 4.6.5. Design Standards shall be applicable to a RMD. The applicant shall meet all requirements of the Commercial District or DPH guidelines, whichever is more restrictive.

4.16.6.4 Waivers The Planning Board may waive any of the conditional standards within this section provided that such waiver will not derogate from the intent established herein.

4.16.7. Security

4.16.9.1. All security measures to be approved by the Lunenburg Fire and Police Chiefs. An active security system shall be required for all RMD locations and approved by both the Lunenburg Fire and Police Chiefs and submitted to the Planning Board

4.16.9.2. RMDs shall be open to inspection by the Fire Department, Police Department, Building Official and the Board of Health with twenty-four (24) hours' notice of request for such inspection to be made by the Town Department or Official. A property contact shall be available to such Town Department or Official twenty-four hours a day, seven days a week.

4.16.10. Documentation

The Planning Board shall be provided with all decisions or approvals, denials or other substantive actions by DPH regarding the RMD and all submittals of information between the applicant or RMD and DPH.